LEASE—COVENANT AGAINST ASSIGNMENT WITHOUT CONSENT—POWER OF LIQUIDATOR TO ASSIGN.—Appellant had leased premises in question to Farrow's Bank in 1910 for a term of twenty-one years. The lease contained a covenant by "the lessees, their successors and assigns," not to assign the demised premises without previous consent in writing of the lessor. The company was ordered to be wound up compulsorily in January, 1921. A dispute having arisen as to the powers and duties of the liquidator with respect to the lease, the court of equity was called upon to declare, *inter alia*, whether or not the liquidator was bound by the covenant restricting assignment. *Held*, that the liquidator was bound by the covenant. *In re Farrow's Bank, Ld.* [1921], 2 Ch. 164.

The decision in this case is interesting not so much because of its holding as to the powers of the liquidator under the Companies Act of 1908, but because of the reasoning upon which the court proceeded. Under the Companies Act, the liquidator, who is appointed by the court, and resembles the American receiver, takes over full control of the company, and does all necessary acts on its behalf. None of the property is vested in the liquidator, however, in which respect he differs from a trustee in bankruptcy. A trustee in bankruptcy has generally been held *not* to be bound by such a covenant restricting assignment, *Gazlay* v. *Williams*, 210 U. S. 41; *Doe* v. *Bevan*, 3 Maule & S. 353; even though the proceedings were begun upon the lessee's own petition. *Bemis* v. *Wilder*, 100 Mass. 446; *In re Riggs* [1901], 2 K. B. 16. The reason seems to be that the property has vested in the trustee by operation of law, and that then, either because he is under a duty imposed by law to dispose of it for the benefit of creditors, or because he is not a voluntary "assignee," he is not bound by the covenants. But the court in the principal case appeared not entirely in sympathy with rule or reason. Younger, L. J., referred to these bankruptcy cases as "somewhat anomalous," and said they were based on "no very intelligible principle." The court therefore refused to apply the rule of the bankruptcy cases, basing its decision upon the narrow technical distinction that the property did not vest in the liquidator. Or perhaps it would be fairer to say that the court was not inclined to extend a rule which, even as regards bankruptcy, was considered as resting upon a very slender foundation. It is worthy of note that of two American decisions with reference to transfers by receivers one court held that the receiver was bound, *Spencer* v. *Darlington*, 74 Pa. 286; and the other that he was not bound, *Fleming* v. *Fleming Hotel Co.*, 69 N. J. Eq. 715.

MORTGAGES—FORECLOSURE SALE—DESTRUCTION BY FIRE BEFORE CONFIRMATION.—On the foreclosure of a mortgage by advertisement and sale P purchased certain premises. A state statute, C. S., § 2591, provided that ten days should be allowed after a foreclosure sale for receiving additional bids, and if within that time a higher bid was offered there should be a resale. Before the expiration of the ten days a dwelling house on the premises, constituting a third of the value, was accidentally destroyed by fire. P petitioned to be released from his bid. On appeal it was *held* that P's status was only that of a preferred bidder, that the loss sustained by reason of the